

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

ROBIN D. BROCCUTO,

CASE NO. 3:07cv782

Plaintiff,

v.

EXPERIAN INFORMATION
SOLUTIONS, INC., TRANS UNION
LLC, EQUIFAX INFORMATION
SERVICES LLC, CAPITAL ONE BANK,
EXPRESS STORES, INC., t/a LIMITED
EXPRESS, LANE BRYANT, INC.,
EXPRESS STORES, INC, t/a
WFNNB/EXPRESS STRUCTURE and
DISCOVER FINANCIAL SERVICES,
LLC,

Defendants.

**ANSWER AND DEFENSES OF
DEFENDANT EQUIFAX INFORMATION SERVICES LLC**

COMES NOW, Equifax Information Services LLC ("Equifax"), by and through its counsel, and pursuant to Fed. R. Civ. P. 8 and 12, hereby files its answer and defenses to Plaintiff's Complaint as follows:

PRELIMINARY STATEMENT

1. To the extent Paragraph 1 of Plaintiff's Complaint calls for a response from Equifax, Equifax denies that Plaintiff can state a claim under the Fair Credit Reporting Act, 15 U.S.C. §1681 *et seq.* against it, and denies that Plaintiff is entitled to the damages she seeks in this action.

JURISDICTION

2. Equifax admits that this Court has jurisdiction.

PARTIES

3. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of Plaintiff's Complaint.

4. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of Plaintiff's Complaint.

5. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of Plaintiff's Complaint.

6. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of Plaintiff's Complaint.

7. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of Plaintiff's Complaint.

8. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of Plaintiff's Complaint.

9. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of Plaintiff's Complaint.

10. Responding to the allegations contained in Paragraph 10 of Plaintiff's Complaint, Equifax admits that it is a corporation authorized to do business in the State of Virginia and that it has a registered agent in Virginia. Equifax denies the remaining allegations contained in Paragraph 10 of Plaintiff's Complaint.

11. Responding to the allegations contained in Paragraph 11 of Plaintiff's Complaint, Equifax states that it sells consumer reports to third parties with a permissible purpose for such reports. Equifax denies the remaining allegations contained in Paragraph 11 of Plaintiff's Complaint.

12. Equifax admits the allegations contained in Paragraph 12 of Plaintiff's Complaint.

13. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of Plaintiff's Complaint.

14. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of Plaintiff's Complaint.

15. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of Plaintiff's Complaint.

16. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of Plaintiff's Complaint.

17. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of Plaintiff's Complaint.

FACTS

18. Responding to the allegations contained in Paragraph 18 of Plaintiff's Complaint, Equifax admits that Plaintiff obtained a copy of her credit report from Equifax.. Equifax is without knowledge of information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 18 of Plaintiff's Complaint.

19. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of Plaintiff's Complaint.

20. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of Plaintiff's Complaint.

21. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of Plaintiff's Complaint.

22. Equifax admits that it received disputes from Plaintiff in May 2006. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 22 of Plaintiff's Complaint.

23. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of Plaintiff's Complaint.

24. Equifax admits that in June 2006, the creditors verified that the Lane Bryant, Structure and Limited Express accounts were verified as reporting correctly. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 24 of Plaintiff's Complaint.

25. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25 of Plaintiff's Complaint.

26. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26 of Plaintiff's Complaint.

27. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27 of Plaintiff's Complaint.

28. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28 of Plaintiff's Complaint.

29. Equifax admits that it received disputes from Plaintiff. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 29 of Plaintiff's Complaint.

30. Equifax denies the allegations contained in Paragraph 30 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 30 of Plaintiff's Complaint.

31. Equifax denies the allegations contained in Paragraph 31 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 31 of Plaintiff's Complaint.

32. Equifax denies the allegations contained in Paragraph 32 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 32 of Plaintiff's Complaint.

33. Equifax admits that it forwarded Plaintiff's disputes to the furnishers/creditors. Equifax denies the allegations contained in Paragraph 33 as they pertain to Equifax.

COUNT ONE: VIOLATION OF FAIR CREDIT REPORTING ACT
§ 15 U.S.C. 1681e(b) (Experian, Equifax and Trans Union)

34. Equifax incorporates its answers and responses to Paragraphs 1-33 above as if fully restated and set forth in this Paragraph 34.

35. Equifax denies the allegations contained in Paragraph 35 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 35 of Plaintiff's Complaint.

36. Equifax denies the allegations contained in Paragraph 36 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 36 of Plaintiff's Complaint.

37. Equifax denies the allegations contained in Paragraph 37 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 37 of Plaintiff's Complaint.

38. Equifax denies the allegations contained in Paragraph 38 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 38 of Plaintiff's Complaint.

COUNT TWO: VIOLATION OF FAIR CREDIT REPORTING ACT
§ 15 U.S.C. 1681i(a)(1) (Experian, Equifax and Trans Union)

39. Equifax incorporates its answers and responses to Paragraphs 1-38 above as if fully restated and set forth in this Paragraph 39.

40. Equifax denies the allegations contained in Paragraph 40 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 40 of Plaintiff's Complaint.

41. Equifax denies the allegations contained in Paragraph 41 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 41 of Plaintiff's Complaint.

42. Equifax denies the allegations contained in Paragraph 42 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 42 of Plaintiff's Complaint.

43. Equifax denies the allegations contained in Paragraph 43 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 43 of Plaintiff's Complaint.

COUNT THREE: VIOLATION OF FAIR CREDIT REPORTING ACT
§ 15 U.S.C. 1681i(a)(2) (Experian, Equifax and Trans Union)

44. Equifax incorporates its answers and responses to Paragraphs 1-43 above as if fully restated and set forth in this Paragraph 44.

45. Equifax denies the allegations contained in Paragraph 45 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 45 of Plaintiff's Complaint.

46. Equifax denies the allegations contained in Paragraph 46 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 46 of Plaintiff's Complaint.

47. Equifax denies the allegations contained in Paragraph 47 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 47 of Plaintiff's Complaint.

48. Equifax denies the allegations contained in Paragraph 48 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 48 of Plaintiff's Complaint.

COUNT FOUR: VIOLATION OF FAIR CREDIT REPORTING ACT
§ 15 U.S.C. 1681i(a)(4) (Experian, Equifax and Trans Union)

49. Equifax incorporates its answers and responses to Paragraphs 1-48 above as if fully restated and set forth in this Paragraph 49.

50. Equifax denies the allegations contained in Paragraph 50 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 50 of Plaintiff's Complaint.

51. Equifax denies the allegations contained in Paragraph 51 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 51 of Plaintiff's Complaint.

52. Equifax denies the allegations contained in Paragraph 52 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 52 of Plaintiff's Complaint.

53. Equifax denies the allegations contained in Paragraph 53 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 53 of Plaintiff's Complaint.

COUNT FIVE: VIOLATION OF FAIR CREDIT REPORTING ACT
§ 15 U.S.C. 1681i(a)(5)(A) (Experian, Equifax and Trans Union)

54. Equifax incorporates its answers and responses to Paragraphs 1-53 above as if fully restated and set forth in this Paragraph 54.

55. Equifax denies the allegations contained in Paragraph 55 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 55 of Plaintiff's Complaint.

56. Equifax denies the allegations contained in Paragraph 56 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 56 of Plaintiff's Complaint.

57. Equifax denies the allegations contained in Paragraph 57 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 57 of Plaintiff's Complaint.

58. Equifax denies the allegations contained in Paragraph 58 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 58 of Plaintiff's Complaint.

COUNT SIX: VIOLATION OF FAIR CREDIT REPORTING ACT
§ 15 U.S.C. 1681i(a)(5)(c) (Experian, Equifax and Trans Union)

59. Equifax incorporates its answers and responses to Paragraphs 1-58 above as if fully restated and set forth in this Paragraph 59.

60. Equifax denies the allegations contained in Paragraph 60 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 60 of Plaintiff's Complaint.

61. Equifax denies the allegations contained in Paragraph 61 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 61 of Plaintiff's Complaint.

62. Equifax denies the allegations contained in Paragraph 62 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 62 of Plaintiff's Complaint.

63. Equifax denies the allegations contained in Paragraph 63 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 63 of Plaintiff's Complaint.

COUNT SEVEN: VIOLATION OF FAIR CREDIT REPORTING ACT § 15 U.S.C. 1681s-2(b)(1)(A) (Lane Bryant, Discover, Limited Express, Structure and Capital One)

64. Equifax incorporates its answers and responses to Paragraphs 1-63 above as if fully restated and set forth in this Paragraph 64.

65. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 65 of Plaintiff's Complaint.

66. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 66 of Plaintiff's Complaint.

67. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 67 of Plaintiff's Complaint.

68. Equifax denies the allegations contained in Paragraph 68 as they pertain to Equifax. Equifax is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 68 of Plaintiff's Complaint.

COUNT EIGHT: VIOLATION OF FAIR CREDIT REPORTING ACT
§ 15 U.S.C. 1681s-2(b)(1)(B) ((Lane Bryant, Discover, Limited Express, Structure and Capital One)

69. Equifax incorporates its answers and responses to Paragraphs 1-68 above as if fully restated and set forth in this Paragraph 69.

70. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 70 of Plaintiff's Complaint.

71. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 71 of Plaintiff's Complaint.

72. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 72 of Plaintiff's Complaint.

73. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 73 of Plaintiff's Complaint.

COUNT NINE: VIOLATION OF FAIR CREDIT REPORTING ACT
§15 U.S.C. 1681s-2(b)(1)(C)and(D) (Lane Bryant, Discover, Limited Express, Structure and Capital One)

74. Equifax incorporates its answers and responses to Paragraphs 1-73 above as if fully restated and set forth in this Paragraph 74.

75. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 75 of Plaintiff's Complaint.

76. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 76 of Plaintiff's Complaint.

77. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 77 of Plaintiff's Complaint.

78. Equifax is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 78 of Plaintiff's Complaint.

79. Any allegations contained in Plaintiff's Complaint not specifically responded to above are hereby expressly denied.

80. Equifax admits that Plaintiff demands a trial by jury.

DEFENSES

Without assuming the burden of proof where it otherwise rests with Plaintiff, Equifax pleads the following defenses to the Complaint:

FIRST DEFENSE

Plaintiff's Complaint fails, in whole or in part, to state a claim against Equifax upon which relief can be granted.

SECOND DEFENSE

At all pertinent times, Equifax maintained reasonable procedures to ensure maximum possible accuracy in its credit reports.

THIRD DEFENSE

Equifax has complied with the Fair Credit Reporting Act in its handling of Plaintiff's credit file and is entitled to each and every defense stated in the Act and any and all limitations of liability.

FOURTH DEFENSE

At all pertinent times, Equifax acted in good faith and without malice or intent to injure Plaintiff.

FIFTH DEFENSE

Plaintiff's damages, if any, were not caused by Equifax, but by another person or entity for whom or for which Equifax is not responsible.

SIXTH DEFENSE

Plaintiff's claim for punitive damages is barred or limited by the provisions of 15 U.S.C. §1681n.

SEVENTH DEFENSE

Plaintiff's Complaint seeks the imposition of punitive damages. Equifax adopts by reference the defenses, criteria, limitations, standards and constitutional protections mandated or provided by the United States Supreme Court in the following cases: BMW v. Gore, 517 U.S. 559 (1996); Cooper Indus., Inc. v. Leatherman Tool Group, Inc., 532 U.S. 923 (2001); State Farm v. Campbell, 538 U.S. 408 (2003); and, Phillip Morris USA v. Williams, 127 S. Ct. 1057 (2007).

EIGHTH DEFENSE

Equifax reserves the right to have additional defenses that it learns through the course of discovery.

WHEREFORE, having fully answered or otherwise responded to the allegations contained in Plaintiff's Complaint, Equifax prays that:

- (1) Plaintiff's Complaint be dismissed in its entirety and with prejudice, with all costs taxed against Plaintiff;
- (2) That Equifax be dismissed as a party to this action;
- (3) That Equifax recover from Plaintiff its expenses of litigation, including attorneys' fees; and

(4) That Equifax recover such other and additional relief, as the Court deems just and appropriate.

Respectfully submitted this 24th day of January, 2008

EQUIFAX INFORMATION SERVICES LLC

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of January, 2008, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Leonard A. Bennett
Consumer Litigation Associates, P.C.
12515 Warwick Boulevard, Suite 100
Newport News, Virginia 23606
Email: lenbennett@clalegal.com

/s/
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